

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

United States of America,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
Twenty Six Thousand Two Hundred Ten Dollars	)	JURY TRIAL REQUESTED
(\$26,210.00) in U.S. Currency, more or less,	)	
seized from 33 New Boston Road, Bedford, New	)	
Hampshire,	)	
	)	
Defendant <i>in rem</i> .	)	
_____	)	

**VERIFIED COMPLAINT FOR FORFEITURE *IN REM*,  
FOR PROPERTY WITHIN THE UNITED STATES' POSSESSION, CUSTODY  
OR CONTROL PURSUANT TO SUPPLEMENTAL RULE G**

Plaintiff, United States of America, brings this Complaint according to Supplemental Rule G(2) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, and alleges:

**NATURE OF THE ACTION**

This is an action to forfeit and condemn to the use and benefit of the United States of America the captioned defendant *in rem* pursuant to 21 U.S.C. § 881(a)(6).

**JURISDICTION AND VENUE**

The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355(a). Venue is proper in this district pursuant to 28 U.S.C. §§ 1395 and 1355(b)(1).

**THE DEFENDANT *IN REM***

The defendant *in rem* is Twenty Six Thousand Two Hundred Ten Dollars (\$26,210.00) in U.S. Currency, more or less, seized from 33 New Boston Road, Bedford, New Hampshire. The defendant *in rem* is currently in the custody of the Drug Enforcement Administration (DEA).

## **FACTS**

1. As a result of a Title III joint drug investigation between DEA's Manchester District Office and the New Hampshire Attorney General's office into a drug trafficking organization operating in the Lawrence, Massachusetts and Manchester, New Hampshire area, agents identified Brian Rutherford Jr. (Rutherford) as a large scale fentanyl dealer.

2. On June 27, 2019, DEA agents and law enforcement officers arrested Rutherford and executed a search warrant at his residence located at 33 New Boston Road, Bedford, New Hampshire. Agents seized a package of two bags containing approximately 447 grams (.98 pound) of fentanyl from the kitchen, along with a scale containing fentanyl and THC residue. Agents also seized the defendant *in rem* \$26,960.00 from a safe in the room above the garage and \$765.00 from a shoebox in the closet attached to the room above the garage. Agents further seized five guns from a red backpack on a shelf next to the fireplace in the room above the garage.

3. A New Hampshire state trooper walked his certified drug detecting K-9 dog, Granite, around the safe that contained the defendant *in rem* currency. Granite is trained to detect the odors of cocaine, heroin, and methamphetamine. Granite alerted to the safe, indicating the presence of narcotic odor.

4. Amber Grenier (Grenier) is Rutherford's live-in girlfriend. She was present for the execution of the search warrant and voluntarily spoke with investigators outside of the residence, after signing an advice of rights form and being informed of her Miranda rights. Grenier said that she has been in a relationship with Rutherford for about three years, and that Rutherford has never had legitimate employment. She said that Rutherford's sole source of income has been from drug sales.

5. Grenier detailed Rutherford's source of supply for fentanyl, and described how packages of drugs were delivered multiple times per week to Rutherford. Grenier admitted her involvement in drug sales, telling agents that she drove Rutherford to deals, handed customers fentanyl in exchange for cash, made fentanyl deliveries if Rutherford was busy, and helped him count the money from drug sales. She said that she assisted Rutherford by renting their apartments and putting utilities in her name, because he had no legitimate income. Grenier said that Rutherford gave her money from the drug sales he conducted, and she would then convert it to money orders to pay the rent and utilities. She said that Rutherford owned the defendant *in rem* \$26,210.

6. During a post-arrest interview, Rutherford told agents that his main supplier would often stay at his residence and provide Rutherford and Grenier with narcotics as payment, and pay for their living expenses. Rutherford said that he received approximately 300 grams of fentanyl a week which earned approximately \$20,000 after distribution.

7. Rutherford and Grenier are currently being prosecuted by the New Hampshire Attorney General's Office on felony controlled drug charges. Rutherford's criminal history includes a 2017 felony controlled drug conviction.

**CLAIM FOR FORFEITURE**  
**21 U.S.C. § 881(a)(6)**

8. The allegations contained in paragraphs 1-6 of this Verified Complaint for Forfeiture *in Rem* are incorporated by reference.

9. Title 21, U.S.C. § 881(a)(6) subjects to forfeiture "all moneys ... or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or ... all proceeds traceable to such an exchange and all moneys ... used or intended to be used to facilitate any violation of" the Controlled Substances Act.

10. The defendant *in rem* was furnished or intended to be furnished in exchange for a controlled substance, in violation of the Controlled Substances Act, 21 U.S.C. § 801, et seq., or represents proceeds traceable to such exchanges, or money used or intended to be used to facilitate violations of the Act. As a result, the defendant *in rem* is liable for condemnation and forfeiture to the United States for its use in accordance with 21 U.S.C. § 881(a)(6).

Therefore, the United States requests that:

- (a) the Clerk of Court issue a Warrant of Arrest *in Rem*, in the form submitted with this Verified Complaint, to the United States Marshals Service, commanding them to arrest the defendant *in rem*;
- (b) this matter be scheduled for a jury trial;
- (c) judgment be entered against the defendant *in rem*;
- (d) the defendant *in rem* be disposed of according to law; and
- (e) this Court grant the United States its costs and whatever other relief to which it may be entitled.

Respectfully submitted,

SCOTT W. MURRAY  
United States Attorney

Dated: December 18, 2019

By: /s/ Robert J. Rabuck  
Robert J. Rabuck  
NH Bar # 2087  
Assistant U.S. Attorney  
District of New Hampshire  
53 Pleasant Street  
Concord, New Hampshire  
603-225-1552  
[rob.rabuck@usdoj.gov](mailto:rob.rabuck@usdoj.gov)

**VERIFICATION**

I, Adam Lambert, being duly sworn, depose and say that I am a Special Agent assigned to the Drug Enforcement Administration, and as such have responsibility for the within action, that I have read the contents of the foregoing Verified Complaint for Forfeiture *in rem* and know the contents therein, and that the same is true to the best of my knowledge, information and belief.

The sources of my information and the grounds of my belief are official records and files of the United States and the State of New Hampshire, and information obtained by me and other law enforcement officers during an investigation of alleged violations of the controlled substances laws of the State of New Hampshire and of the United States.

/s/ Adam W. Lambert  
Adam W. Lambert

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

Subscribed and sworn to before me this 18th day of December 2019.

/s/ Francine Doucette Conrad  
Notary Public

My commission expires: March 27, 2024.

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- |  |   |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question<br>(U.S. Government Not a Party)          |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity<br>(Indicate Citizenship of Parties in Item III) |

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- |  |   |  |   |  |   |
|--|---|--|---|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|--|---|--|---|--|---|

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

United States of America,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
Twenty Six Thousand Two Hundred Ten Dollars	)	
(\$26,210.00) in U.S. Currency, more or less,	)	
seized from 33 New Boston Road, Bedford, New	)	
Hampshire,	)	
	)	
Defendant <i>in rem</i> .	)	
_____	)	

SUMMONS AND WARRANT OF ARREST IN REM  
FOR ISSUANCE BY THE CLERK OF COURT FOR PROPERTY  
WITHIN THE UNITED STATES' POSSESSION, CUSTODY OR CONTROL  
PURSUANT TO SUPPLEMENTAL RULE G(3)(b)(I)

To the United States Marshals Service (USMS), or any duly authorized Federal Law  
Enforcement Officer for the District of New Hampshire:

Pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Certain Admiralty and  
Maritime Claims, a Verified Complaint for Forfeiture *in rem* has been filed on December 18,  
2019, in the U.S. District Court for the District of New Hampshire, alleging that the defendant *in*  
*rem*, \$26,210.00 in U.S. Currency, more or less, seized from 33 New Boston Road, Bedford,  
New Hampshire, is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6).

YOU ARE, THEREFORE, COMMANDED to seize the captioned defendant *in rem*, and  
use discretion and whatever means appropriate to protect and maintain the property pending the  
outcome of this action;



IT IS FURTHER ORDERED that the USMS shall maintain custody of the defendant *in rem* until further order of this Court, and shall use his discretion and whatever means appropriate to protect and maintain said defendant *in rem*;

IT IS FURTHER ORDERED that the United States shall serve upon all potential claimants to the defendant *in rem*, a copy of this Summons and Warrant of Arrest *in rem*, and the Verified Complaint for Forfeiture *in rem*, in a manner consistent with the principles of service of process in an action *in rem* under Supplemental Rule G and other Supplemental Rules for Certain Admiralty and Maritime Claims and Title 18, United States Code, Section 983(a);

IT IS FURTHER ORDERED that a return of this Summons and Warrant of Arrest *in rem* shall be promptly made to the Court, identifying the individuals upon whom copies were served and the manner employed; and

IT IS FURTHER ORDERED that all persons claiming an interest in or right against the defendant *in rem* shall file their verified claim within thirty-five (35) days after the date on which they were sent the Notice of Complaint or the final publication of notice of the filing of the Complaint, whichever is earlier, or within such additional time as the Court may allow, pursuant to Title 18, United States Code, Section 983(a)(4) and Rule G(4)(b)(ii)(B) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and shall serve and file their answer to the Complaint within twenty-one (21) days after the filing of their verified claim, pursuant to Rule G(4)(b)(ii)(C) of the Supplemental Rules for Certain Admiralty and Maritime Claims, with the Office of the Clerk, United States District Court for the District of New Hampshire, with a copy

sent to Assistant United States Attorney Robert J. Rabuck, United States Attorney's Office,  
District of New Hampshire, 53 Pleasant Street, Concord, NH 03301.

Dated:

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DANIEL J. LYNCH, CLERK